

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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JUAN CALDERON,

No. 2:23-cv-1064 WBS KJN

Plaintiff,

v.

ORDER

ROB BONTA, et al.,

Defendants.

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Plaintiff filed this suit against Attorney General Rob Bonta and Doe defendants asserting a litany of claims, including the implantation of a chip to monitor his brain activity, sexual experimentation, confiscation of his mail, improper disclosure of his prison files, and denial of health care. (Docket No. 1.) The Magistrate Judge dismissed the original complaint because (1) defendant Bonta had absolute immunity for those claims against him based on his official duties; (2) plaintiff had not pled sufficient facts linking defendant Bonta to the alleged deprivations; and (3) plaintiff's claims were vague, conclusory,

1 and largely not believable. (Docket No. 6.)

2 Plaintiff then filed an amended complaint, which the
3 Magistrate Judge recommended be dismissed for the same reasons.
4 (Docket Nos. 9, 12.) The court adopted the Magistrate Judge's
5 Findings and Recommendations and dismissed the case and also
6 denied plaintiff's motion for injunctive relief in light of the
7 dismissal of the case. (Docket Nos. 13, 16.)

8 Plaintiff then appealed. After the Ninth Circuit
9 remanded the case to the undersigned to determine whether
10 plaintiff's in forma pauperis ("IFP") status should continue for
11 the appeal, the court found the appeal was frivolous and revoked
12 plaintiff's IFP status. (Docket Nos. 23, 26, 30.) The Ninth
13 Circuit then dismissed the appeal after plaintiff failed to file
14 a statement explaining why the case was not frivolous and should
15 go forward. (Docket No. 32.)

16 While plaintiff's appeal was pending, he submitted
17 three additional filings which appear to request injunctive
18 relief for reasons related to those discussed in his complaints.
19 (Docket Nos. 25, 27, 28.) The Magistrate Judge now recommends
20 that the motions for injunctive relief be denied because they
21 were filed while his appeal was pending and this action ended
22 once the Ninth Circuit dismissed his appeal. (Docket No. 34
23 (citing, *inter alia*, Griggs v. Provident Consumer Discount Co.,
24 459 U.S. 56, 58 (1982) ("The filing of a notice of appeal . . .
25 confers jurisdiction on the court of appeals and divests the
26 district court of its control over those aspects of the case
27 involved in the appeal.")); Hall v. Hall, 138 S. Ct. 1118, 1123-24
28 (2018) (a final decision ends the litigation on the merits and

1 leaves nothing for the court to do but execute the judgment).)
2 The Magistrate Judge's order also contained notice to the
3 plaintiff that any objections to the Findings and Recommendations
4 were to be filed within fourteen days. Plaintiff did not file
5 any objections.

6 Because plaintiff's pending motions appear to request
7 the same relief he requested in his original and amended
8 complaints, based on the same conduct discussed in those
9 complaints, the court agrees that it did not have jurisdiction to
10 consider the motions while his appeal was pending. See Griggs,
11 459 U.S. at 58. However, now that the appeal has concluded, the
12 court will construe plaintiff's motions as requests for relief
13 under Federal Rule of Civil Procedure 60(b). The court will deny
14 the requests, as plaintiff has shown no error in the court's
15 prior rulings or any other reason that would justify relief from
16 final judgment, even assuming such motions were timely.
17 Moreover, because plaintiff has not stated a claim against
18 defendant Bonta, there is no basis for injunctive relief.

19 Accordingly, IT IS HEREBY ORDERED that:

20 1. The Findings and Recommendations filed January 26, 2024
21 (Docket No. 34) are adopted to the extent they are not
22 inconsistent with this order; and

23 2. Plaintiff's pending motions (Docket Nos. 25, 27, 28) are
24 denied.

25 Dated: March 4, 2024

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27 WILLIAM B. SHUBB
28 UNITED STATES DISTRICT JUDGE